

1632

DOCKET NO.: C1040.70010US00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Applicant: McCluskie et al.  
Serial No: 09/768,012  
Confirmation No.: 9273  
Filed: January 22, 2001  
For: IMMUNOSTIMULATORY NUCLEIC ACIDS FOR INDUCING  
A TH2 IMMUNE RESPONSE  
Examiner: Nguyen, Dave Trong  
Art Unit: 1632

FEB 27 2004

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

The undersigned hereby certifies that this document is being placed in the United States mail with first-class postage attached, addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the 20 day of February, 2004.

Kristin J Ketelhut

Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following documents:

- ☒ Information Disclosure Statement
- ☒ PTO Form 1449 with cited references
- ☒ Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check is not enclosed. If a fee is required, the Commissioner is hereby authorized to charge Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,  
*McCluskie et al., Applicant*

By:   
Maria A. Trevisan, Reg. No.: 48,207  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2211  
Telephone: (617)720-3500

Docket No. C1040.70010US00  
Date: February 20, 2004  
x02/23/04x



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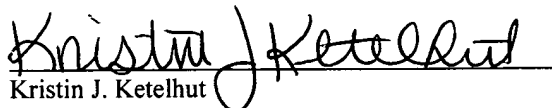
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Kristin J. Ketelhut

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**STATEMENT FILED PURSUANT TO THE DUTY OF  
DISCLOSURE UNDER 37 CFR §§1.56, 1.97 AND 1.98**

Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§1.56, 1.97 and 1.98, the Applicant requests consideration of this Information Disclosure Statement.

**PART I: Compliance with 37 C.F.R. §1.97**

This Information Disclosure Statement has been filed before the mailing of a first Office Action after the filing of a request for continued examination under 37 C.F.R. §1.114.

No fee or certification is required.

PART II: Information Cited

The Applicant hereby makes of record in the above-identified application the information listed on the attached form PTO-1449 (modified). The order of presentation of the references should not be construed as an indication of the importance of the references.

PART III: Remarks

Documents cited anywhere in the Information Disclosure Statement are enclosed unless otherwise indicated. It is respectfully requested that:

1. The Examiner consider completely the cited information, along with any other information, in reaching a determination concerning the patentability of the present claims;
2. The enclosed form PTO-1449 be signed by the Examiner to evidence that the cited information has been fully considered by the Patent and Trademark Office during the examination of this application;
3. The citations for the information be printed on any patent which issues from this application.

By submitting this Information Disclosure Statement, the Applicant makes no representation that a search has been performed, of the extent of any search performed, or that more relevant information does not exist.

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56(b).

By submitting this Information Disclosure Statement, the Applicant makes no representation that the information cited in the Statement is, or is considered to be, in fact, prior art as defined by 35 U.S.C. §102.

Notwithstanding any statements by the Applicant, the Examiner is urged to form his own conclusion regarding the relevance of the cited information.


An early and favorable action is hereby requested.

Serial No.: 09/768,012

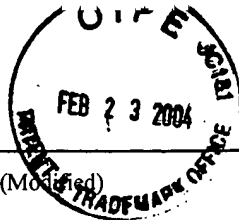
- 3 -

Art Unit: 1632

Respectfully submitted,  
McCluskie et al., *Applicant*

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Date: February 20, 2004  
**X02/23/04X**



<b>FORM PTO-1449/A and B (Modified)</b>  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>				APPLICATION NO.: 09/768,012		ATTY. DOCKET NO.: C1040.70010US00	
				FILING DATE: January 22, 2001		CONFIRMATION NO.: 9273	
				APPLICANT: McCluskie et al.			
				GROUP ART UNIT: 1632		EXAMINER: Nguyen, Dave Trong	
Sheet	1	of	1				

#### U.S. PATENT DOCUMENTS

Examiner's Initials	Cite No.	U.S. Patent Document		Name of Patentee or Applicant of Cited Document	Date of Publication or of issue of Cited Document MM-DD-YYYY
		Number	Kind Code		

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#### FOREIGN PATENT DOCUMENTS

Examiner's Initials	Cite No.	Foreign Patent Document			Name of Patentee or Applicant of Cited Document (not necessary)	Date of Publication of Cited Document MM-DD-YYYY	Translation (Y/N)
		Office/ Country	Number	Kind Code			

#### OTHER ART — NON PATENT LITERATURE DOCUMENTS

Examiner's Initials	Cite No	Include name of the author (in CAPITAL LETTERS) title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, relevant page(s), volume-issue number(s), publisher, city and/or country where published.	Translation (Y/N)	
	C126	McCLUSKIE et al., "Route and Method of Delivery of DNA Vaccine Influence Immune Responses in Mice and Non-Human Primates", Molecular Medicine, 1999, 5:287-300.		
	C127	LEITNER et al., "Immune Responses Induced by Intramuscular or Gene Gun Injection of Protective Deoxyribonucleic Acid Vaccines That Express the Circumsporozoite Protein from <i>Plasmodium berghei</i> Malaria Parasites", The Journal of Immunology, 1997, 159: 6112-6119.		

EXAMINER	DATE CONSIDERED
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#EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

\*a copy of this reference is not provided as it was previously cited by or submitted to the office in a prior application, Serial No. \_\_, filed \_\_, and relied upon for an earlier filing date under 35 U.S.C. 120 (continuation, continuation-in-part, and divisional applications).

[NOTE - Must provide a copy of any patent, publication, other information listed, even if it was previously submitted to, or cited by, the U.S. Patent Office in an earlier application, unless the earlier application is identified by the IDS and is relied upon for an earlier filing date under 35 U.S.C. §120, and the copy was provided in the earlier application.]